

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**JASMINE DOVE ANNA GRAHAM,**

Plaintiff,

v.

**PORTLAND PUBLIC SCHOOL  
DISTRICT #1J, JOLLEEN PATTERSON,  
KARL LOGAN, CAROL SMITH,  
KRISTIE CUNIN, T.J. FULLER, RUTH  
TUCKER, TAMMY JACKSON, and  
CARLA RANDALL,**

Defendant.

Case No. 3:13-cv-00911-AC

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on February 9, 2015. Dkt. 66. Judge Acosta recommends that the Court dismiss all of Plaintiff's claims without prejudice, with the exception of Plaintiff's Title VI claim which is futile when predicated on the facts alleged in the amended complaint. Judge Acosta further recommends that all of Plaintiff's children's claims be dismissed without prejudice so that they may pursue their claims when represented by counsel or pro se when they reach the age of majority. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1)(C). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, however, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Nor does the Act “preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. And the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.” As no party has made objections, the Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge Acosta’s Findings and Recommendation. Dkt. 66. Defendants’ Motion to Dismiss (Dkt. 60) is GRANTED. Plaintiff’s Title VI claim is DISMISSED with prejudice. All other claims are DISMISSED without prejudice.

**IT IS SO ORDERED.**

DATED this 5th day of March, 2015.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge